

**REMARKS**

Reconsideration of this application is requested. Claims 1-14 and 20-27 are in the case.

**I. THE 35 U.S.C. 112, SECOND PARAGRAPH, REJECTION**

Claims 1-14 and 20-27 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for the reasons stated on pages 2 and 3 of the Action. Those rejections are respectfully traversed.

In paragraph 1, the Examiner has objected to the term "protected". Without conceding to the merit of this objection, claim 1 has been amended to remove reference to protected derivatives.

In paragraph 2, the Examiner has raised objections with respect to "alkyl". In response, claim 1 has been amended to incorporate the definitions of "alkyl" and "alkylene". In addition, the claims have been amended to specifically refer to cycloalkyl and cycloalkoxy. Basis appears at page 8, line 25 through page 9, line 15.

With regard to paragraph 3, claim 20 has been amended to replace "a person suffering from, or susceptible to, such a condition" with "a person in need thereof".

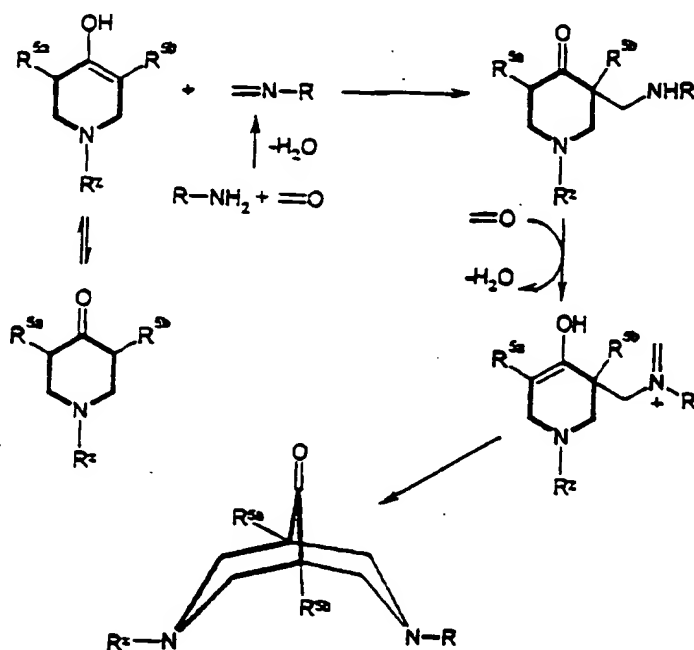
Withdrawal of this aspect of the formal rejection is now respectfully requested.

With regard to paragraph 4, claims 22-24 have been amended to include the full definitions of the substituents, based on amended claim 1. No new matter is entered.

With regard to paragraphs 5 and 6, claim 26 has been amended to delete the remaining brackets. In addition, the phrase "in all cases" has been deleted.

With reference to paragraph 7, the Examiner alleges that claim 26 is unclear because it is not possible to use formaldehyde to produce compounds in which R<sup>2</sup> and

$R^3$  represent methyl. It is important to understand the chemistry involved in the processes of claim 26. Thus, first, the substituents  $R^2$  and  $R^3$  are not present in compounds with formulae VIII and XVII, which are bispidone derivatives. Secondly, the formaldehyde is incorporated into the part of the bispidine ring system that is unsubstituted, as set out in the reaction scheme below:



Withdrawal of the rejection set forth in paragraph 7 is now believed to be in order, and is requested.

With reference to paragraph 8, the Examiner alleges that claim 21 is improperly dependent on claim 1, as it is believed that the bispidine *N*-oxide and quaternary ammonium salts are not protected forms of compounds of formula I, as defined in claim 1. In response, claim 21 is not dependent upon claim 1, as it relates to processes and

not compounds. This point is discussed earlier in this response. However, in order to further clarify the claims, claim 1 has been amended to include *N*-oxide and C<sub>1-4</sub> alkyl quaternary ammonium derivatives of compounds of formula I (see page 8, lines 1-7 of the application as originally filed).

Withdrawal of the outstanding 35 U.S.C. § 112, second paragraph, rejection is now believed to be in order. Such action is respectfully requested.

## **II. THE 35 U.S.C. § 112, FIRST PARAGRAPH, REJECTIONS**

Claim 21 stands rejected under 35 U.S.C. § 112, first paragraph, on alleged lack of enablement grounds with respect to the scope of (r). In response, and without conceding to the merit of that rejection, (r) has been cancelled without prejudice. Withdrawal of the 35 U.S.C. § 112, first paragraph, rejection in regard to the scope of (r) is now respectfully requested.

Claims 1-14 and 20-26 stand rejected under 35 U.S.C. § 112, first paragraph, on alleged lack of enablement grounds with respect to solvates. Without conceding to the merit of this rejection, the claims have been amended to remove reference to "solvates". Withdrawal of this rejection is now respectfully requested.

## **III. DOUBLE PATENTING**

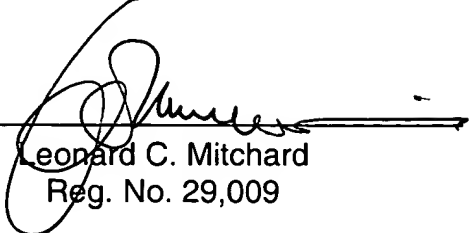
Claims 1-14 and 20-27 stand rejected on alleged obviousness-double patenting grounds over claims 1-26 of copending application Serial No. 09/623,705. Without conceding to the merit of this rejection a Terminal Disclaimer executed by the undersigned was submitted with the response dated November 8, 2002, together with the requisite fee. Withdrawal of this rejection is now respectfully requested.

Allowance of the application is awaited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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